

**31A-25-205. Financial responsibility.**

(1) Every person licensed under this chapter shall maintain an insurance policy or surety bond:

- (a) (i) while licensed; and
- (ii) for one year after the person is licensed; and
- (b) issued:
  - (i) by an authorized insurer;
  - (ii) in an amount specified under Subsection (2); and
  - (iii) on a policy or contract form that is acceptable under Subsection (3).
- (2) (a) Insurance policies or surety bonds satisfying the requirement of

Subsection (1) shall be in a face amount equal to:

- (i) at least the greater of:
  - (A) 10% of the total funds handled by the administrator; or
  - (B) \$5,000; and
- (ii) may not exceed \$500,000.
- (b) In fixing the policy or bond face amount under Subsection (2)(a), the total funds handled is:
  - (i) the greater of:
    - (A) the premiums received during the previous calendar year; or
    - (B) claims paid through the administrator during the previous calendar year; or
  - (ii) if no funds were handled during the preceding year, the total funds reasonably anticipated to be handled by the administrator during the current calendar year.

(c) This section does not prohibit any person dealing with the administrator from requiring, by contract, insurance coverage in amounts greater than the insurance coverage required under this section.

(3) (a) Insurance policies or surety bonds issued to satisfy Subsection (1) shall:

- (i) be on forms approved by the commissioner; and
- (ii) require the insurer to pay, up to the policy or bond face amount, any judgment:

(A) obtained by participants in or beneficiaries of plans administered by the insured licensee; and

(B) that arises from the negligence or culpable acts of the licensee or any employee or agent of the licensee in connection with the activities of a third party administrator as defined in Section 31A-1-301.

(b) The commissioner may require that policies or bonds issued to satisfy the requirements of this section require the insurer to give the commissioner 20 day prior notice of policy cancellation.

(4) The commissioner shall establish annual reporting requirements and forms to monitor compliance with this section.

(5) This section may not be construed as limiting any cause of action an insured would otherwise have against the insurer.

Amended by Chapter 71, 2002 General Session  
Amended by Chapter 308, 2002 General Session